IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26-4-2006

Coram:

The Honourable Mr. Justice T.V. MASILAMANI

C.R.P. (PD) No.845 of 2004

S.Vijayaraman .. Petitioner

vs.

The Special Tahsildar,
Adi Dravidar Welfare,
Ulundurpet. .. Respondent

Civil Revision Petition against the order and decretal order dated 23.12.2003 passed in C.M.A.No.17 of 2003 on the file of the Principal Subordinate Judge, Villupuram.

For Petitioner : Mr.V.Raghavachari

For Respondent : M/s.Dhakshayini,
Govt. Advocate.

...

O R D E R

The revision petitioner is the appellant in C.M.A.No.17 of 2003 on the file of the Principal Subordinate Judge, Villupuram and he filed the said appeal against the proceedings No.A/80 of 1997 dated 8.1.1998 on the file of the Special Tahsildar, Adi Dravidar Welfare, Ulundurpet. Having aggrieved by the impugned orders passed by the Principal Subordinate Judge in the said appeal, he has filed this revision.

2. The lands belonging to the revision petitioner measuring 0.20.0 hectares in Survey No.117/4 GD, 0.48.5 hectares in Survey No.117/5 GD, 0.09.0 hectares in Survey No.118/13 GD were acquired along with other lands situate in Palangur village, Tirukoilur Taluk, Villupuram District by the Government of Tamil Nadu by virtue of notification dated 24.11.1997 under Section 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31/78) to provide house sites to Adi Dravidar people of Palangur colony, Tirukoilur Taluk. The Land Acquisition Officer, Special Tahsildar (ADW) Ulundurpet enquired the objections

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

received from the claimants and passed an award fixing the compensation at the rate of Rs.200/- per cent in respect of the above mentioned petitioner's lands. In addition to the compensation, he has also allowed 15% solatium on the total amount of compensation and therefore aggrieved by the award, the revision petitioner filed the above appeal before the Principal Subordinate Judge, Villupuram claiming at the rate of Rs.1,000/- per cent and also Rs.30,000/- towards underground pipe line to an extent of 1000 feet inclusive of well and Rs.10,000/- towards value of the trees standing thereon. On reference by the Special Tahsildar (ADW), Ulundurpet in his proceedings No.A 80/97 dated 8.1.1998, the appeal was taken on file and disposed of by the Subordinate Judge.

3. Learned Subordinate Judge having considered the evidence both oral and documentary adduced on either side, enhanced the market value of the lands acquired from Rs.200/- per cent to Rs.400/- per cent and in addition to the said compensation amount, he awarded 30% solatium on the total amount of compensation and 12% interest on the market value for the period from the date of 4(1) notification till the date of award (i.e.,) 24.11.1997 to 8.1.1998. Hence the revision.

4. Heard Mr.V.Raghavachari, learned counsel appearing for the revision petitioner and M/s.Dhakshayini, learned Government Advocate appearing for the respondent.

5. Learned counsel for the revision petitioner has submitted the following in support of the revision:-

The court below failed to appreciate that the documents Exs.A-1 and A-2 are not disputed and that therefore the value stated therein could be the proper value to be adopted to fix the compensation in this case. If the value stated in the above said documents is taken into account, the market value of the land acquired would be Rs.1,000/- per cent and therefore the value fixed by the court below at Rs.400/- per cent has to be revised to Rs.1,000/- per cent. Similarly, the court below should have taken into account the fact that the petitioner improved the property by laying underground pipe-line and therefore he lost substantial income by virtue of the acquisition. So also the lands acquired to provide house sites to Adi Dravidar people are located in an area which is potentially used as house sites. Therefore the court below ought to have fixed the market value as claimed by the revision petitioner. The court below should have seen that the acquisition of the lands should answer the test of reasonableness so as to eschew arbitrariness in the assessment of the value and to arrive at just and fair compensation. The evidence of the respondent did not disclose the mode adopted while passing the award.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

6. Admittedly, the above said lands belonging to the revision petitioner had been acquired by the Government of Tamil Nadu under the said notification (vide) Section 4(1) of Tamil Nadu Act 31/78 for the purpose of providing house sites to Adi Dravidar people. Learned counsel for the revision petitioner has pointed out that the evidence of R.W.1 examined on the side of the respondent discloses that the data land in Survey No.97/3 is situated far away from the acquired land of the revision petitioner and that petitioner's land has got facilities for irrigation with well and motor pump set. Further he has also adverted the attention of this Court to the sale deeds Exs.A-1 and A-2 produced by the revision petitioner at the time of the enquiry held by the Land Acquisition Officer, besides his oral evidence.

7. On the contrary, the evidence of the revision petitioner before the court below is to the effect that he sold 6 cents of land under Ex.A-1 dated 24.2.1997 in favour of one Subramanian for Rs.6,000/- and that he sold another land measuring 6 cents under Ex.A-2 sale deed dated 23.9.1997 in favour of one Pichan for Rs.26,000/-. According to him both the lands were sold by him for the purpose of construction of houses and therefore the learned counsel for the revision petitioner has pointed out that even though the sale deeds were executed prior to the said 4(1) notification dated 24.11.1997, the court below did not adopt the value of even the one mentioned in Ex.A-1 which came into existence on 24.2.1997. Hence, he has strenuously contended that the court below ought to have adopted at least the value of Rs.1,000/- per cent as per Ex.A-1 to fix the market value of the land acquired by the respondent.

8. In this context, the learned Government Advocate appearing for the respondent has argued that the value given in the data sale deed in respect of a similarly situate land had been taken into account by the Land Acquisition Officer and therefore the value of Rs.200/- per cent had been fixed by him in respect of the petitioner's lands for the reason that an extent of 1.300 cents in Survey No.97/3 had been sold under registered sale deed dated 6.5.1996 and that the same is similar to that of the acquired land as it is situate nearby having the same quality, fertility, etc. In this context, he has also relied on the decision LAND ACQUISITION OFFICER v. NOOKALA RAJAMALLU (2003 (12) S.C.C. 334) for the position that since the agricultural land had been acquired for the purpose of providing house sites, by adopting all norms specified under the said Act, the value fixed by the Land Acquisition Officer is just and reasonable.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

9. Similarly, she has also pointed out that since the agricultural land is acquired, deduction at the rate of 53% should be made in respect of development expenses, interest on the outlays for the period of deferment of realisation of the price, profits on ventures, etc., (vide) the ratio laid down in the decision referred supra. She has also pointed out the relevant principle of law laid down therein that in a case where much area is the subject matter of acquisition, the rate at which similar sites are sold cannot be a safe criteria to arrive at the compensation.

10. As has been rightly argued by the learned counsel for the revision petitioner, in the same decision in paragraph (9), the following principles for fixation of market value with reference to comparable sales are reiterated. Therefore, he has urged that if those principles are followed in this case, it would be seen that the value given in Ex.A-1 at the rate of Rs.1,000/- per cent would be the just and reasonable one for arriving at the just compensation. As has been rightly pointed out by him, the respondent has not produced a copy of the data sale deed as well as the village map before the court below so as to compare the particulars available in the sale deed with reference to the village map and to come to the right conclusion.

11. As has been pointed out above, R.W.1, the witness examined by the respondent has fairly conceded that the data land is situate far away from the acquired land. But, on the other hand, the land sold under Ex.A-1 is adjacent to the acquired land and therefore this Court is of the considered view that in all respects, the value given in Ex.A-1 at the rate of Rs.1,000/- per cent could be safely adopted as just and reasonable market price to fix the compensation for the acquired land.

12. Learned Government Advocate has pointed out that as per Sections 7 and 12 of the Tamil Nadu Act 31/78, the revision petitioner would be entitled to only 15% solatium on the total compensation amount and 6% interest thereon from the time of taking possession of the acquired land till the date of payment or deposit of the compensation amount. Therefore this Court finds that the court below is not correct in awarding 30% solatium and the revision petitioner is entitled to only 15% only by way of solatium. Similarly, the award of 12% interest from the date of notification till the date of award is also against the said provisions of law and hence this Court finds that the revision petitioner is not entitled to the award of interest of Rs.1,662/- towards such interest. In view of the decision referred to above, since the land is acquired for the purpose of providing house sites, it is reasonable to deduct 50% of the said market value towards development expenses, interest on the outlays for the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

period of deferment of realisation of price, profits on the venture, etc. and therefore after deducting Rs.500/- towards 50% of such deduction out of Rs.1,000/- per cent fixed as compensation in respect of the acquired land, this Court finds that the revision petitioner will be entitled to interest and solatium at 15% p.a. and interest at 6% respectfully on the total compensation amount as mentioned above.

13. Though the revision petitioner has claimed Rs.30,000/- towards the cost of well, underground pipe-line and other irrigation facilities and Rs.10,000/- towards the trees in the acquired land, the evidence on record would indicate that the standing trees were allowed to be cut and carried away by the revision petitioner and that he has not adduced any independent evidence to show and prove the value regarding the well, underground pipe line, etc. However, since the evidence of R.W.1 discloses that the acquired land had irrigation facilities with motor pump set, this Court is of the view that a sum of Rs.5,000/- towards such well and underground pipe line as compensation would meet the ends of justice.

14. For the foregoing reasons, the impugned order is modified as indicated above and the revision petition is ordered that the revision petitioner will be entitled to compensation in respect of the acquired land at the rate of Rs.500/- per cent after statutory deductions with 15% solatium on the total compensation amount and 6% interest thereon till the date of deposit or payment of the compensation amount and Rs.5,000/- towards well and underground pipeline existing in the acquired land. However there is no order as to costs.

dpp

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Principal Subordinate Judge, Villupuram.

+ 1 cc to Mr. V. Raghavachari, Advocate SR No.22150
+ 1 cc to Additional Pleader (CS) SR No.21450

SSV(CO)
SR/15.5.2006

Order in
C.R.P.(PD)No.845 of 2004

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/